

D I C K S T E I N S H A P I R O M O R I N & O S H I N S K Y L L P

2101 L Street NW • Washington, DC 20037-1526
Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 955-6657
A5691.0580

June 21, 2002

By Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

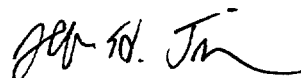
**NOTICE OF EX PARTE
COMMUNICATION**

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

On June 20, 2002, Albert H. Kramer, Allan C. Hubbard, and Jeffrey H. Tignor of Dickstein Shapiro Morin & Oshinsky, counsel for the American Public Communications Council ("APCC"), met with Vickie Byrd, Paul Garnett, Diane Law Hsu, and Jonathan Secrest of the Wireline Competition Bureau. The matters discussed are detailed in the enclosed document, copies of which were handed out at the meeting (along with copies of previously filed materials).

Sincerely,



Jeffrey H. Tignor

Enclosure

cc: Vickie Byrd
 Paul Garnett
 Diane Law Hsu
 Jonathan Secrest



Payphone Service "Contributions" to Universal Service: A Summary

- ◆ **Payphones: a unique and vital form of universal service.** Payphone service "contributes" to universal service by providing the public with high quality "on-demand dial-tone" service which is available 24 x 7 x 365 to all members of the public, for one call or many, and is priced affordably on a per-use basis using a variety of payment media (and free for emergency calls). Users can also place calls, at no charge to the caller, to 800 numbers that provide the full panoply of commercial services and access to public service.
 - Even users of wireless service need ready access to payphones when their wireless phones are out of a service area (such as in many rural areas), lose battery power or otherwise are not available for use. Victims of domestic violence and child abuse (and other callers who do not want a record of the call available to family members) must rely on payphones. Payphones are used by many Americans for local or 800 calls to social service agencies (employment, homeless shelters, social security, etc.).
 - These users of payphone service are found in every strata of society in all neighborhoods and regions of the country. Ready access to payphones is especially critical for the 5.6 million American households without phone service and is vitally important for Americans who do not have wireless service. These Americans rely on ready access to payphones for emergency and important business and personal calls not just where they reside, but also where they shop, visit and work.
- ◆ **Widespread deployment of payphones is mandated by Congress.** In 1996, Congress, recognizing the importance of ready access to payphones, enacted Section 276 of the Communications Act "to promote the widespread deployment of payphone service."
- ◆ **Widespread deployment is threatened.** For a variety of reasons, including the expansion of wireless, payphones in growing numbers are being removed from locations where they are needed but no longer attract sufficient calls to remain economically viable.
- ◆ **Payphone service providers should not be payors.** To help preserve ready access to the telephone network through payphones, the Commission should relieve payphone service providers of the requirement to pay into the Universal Service Fund. Payphone service providers are not "telecommunications carriers" and thus are not mandatory payors under the Act. The Commission relied on a faulty legal analysis when it found that the public interest required that payphone service providers pay into the Fund.

- ◆ **Payments are unduly burdensome.** Unlike other providers of telecommunications, payphone service providers have no rational method available for equitably recovering their universal service payments from end users. If payphone service providers are required to make payments of any significance to the Fund, payphone service providers may have to recover such payments through price increases for local coin calls. It would be inequitable and of questionable legality to force those end users who make local calls to bear the burden of payphone service provider payments to federal universal service mechanisms.

- ◆ **Proposed Tier 1 multi-line business connection assessment should not be applied to payphone service.** Payphone connections do not fit neatly within any of the Commission's proposed categories for connection-based assessments. Payphones are unique among telecommunications services in the manner in which they are used by consumers and how lines are provisioned. Payphones are not provisioned like multi-line business lines and there is no logical reason to assess payphone connections as tier-1 connections. Assessing payphone connections as tier-1 multi-line business connections would result in a several-fold increase in payphone service providers' universal service payments and thereby significantly accelerate the pace of payphone removal.

- ◆ **If required to pay, payphone service providers should be assessed at a reasonable rate.** Payphone service providers should be assessed at a level not higher than that applicable to paging service. Like pagers, payphones are generally used for a more limited connection to the public network than residential or business connections, since the vast majority of payphone calls are outgoing. Also, just as one paging frequency can serve numerous subscribers receiving messages, one payphone can serve many different people making outgoing calls. As with pagers, any payment required for payphone lines should reflect payphone service providers' comparatively small interstate revenues.

- ◆ **Retain *de minimis* exception.** If payphone service providers are required to make universal service payments, a *de minimis* exception should be retained in order to reduce tracking and reporting burdens on small payphone service providers.